

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WADLEY PIERRE,

Plaintiff,

v.

NOTICE OF REMOVAL

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE, MARTIN BRESLIN,
and RICHARD SPINGEL,

Defendants.

TO: The Honorable Judges of the
United States District Court
District of Massachusetts

Petitioners, President and Fellows of Harvard College (“Harvard”), Martin Breslin, and Richard Spingel (collectively hereinafter referred to as “Defendants”), in the above entitled action, state:

1. Defendants desire to exercise rights under the provisions of 28 U.S.C. § 1441, *et seq.*, to remove this action from the Superior Court of the Commonwealth of Massachusetts, Middlesex County, in which said cause is now pending under the name and style *Wadley Pierre v. President and Fellows of Harvard College, Martin Breslin, and Richard Spingel*, Civil Action No. 13-3392. Defendants were served a Summons and a copy of a Complaint in this action on or about August 5, 2013. A copy of the Summons and Complaint and all other papers received in this case to date are attached hereto as Exhibit A.

2. Plaintiff's four-count complaint alleges that the Defendants created and allowed a hostile work environment; unlawfully discriminated against the Plaintiff, Wadley Pierre, ("Plaintiff" or "Pierre") on the basis of his race and national origin, in part by allegedly refusing to allow the Plaintiff to "bump" a less senior employee and not responding to his grievance regarding the "bumping" issue; retaliated against him for filing a charge with the Massachusetts Commission Against Discrimination, in part by allegedly refusing to allow him to "bump" a less senior employee and not responding to his grievance regarding the "bumping" issue; and intentionally inflicted emotional distress upon the Plaintiff by tolerating a hostile work environment. Plaintiff was employed pursuant to a collective bargaining agreement between his union and the Defendant Harvard and resolution of this action requires an interpretation and application of the Local 26, UNITE HERE collective bargaining agreement. Thus, the state court action is one which is completely preempted and displaced by Section 301 of the Labor Management Relations Act, 28 U.S.C. § 1331, and is one which may be removed to this Court by the Defendants herein pursuant to the provisions of 28 U.S.C. § 1441.

3. Defendants are filing this Notice within thirty (30) days of service of the Summons and Complaint, as required by 28 U.S.C. § 1446.

4. Defendants will file a Notice to Counsel of filing of this Notice of Removal (attached hereto as Exhibit B) and a copy of the Notice of Removal with the Clerk, Superior Court of the Commonwealth of Massachusetts, Middlesex County, pursuant to 28 U.S.C. § 1446(d) (attached hereto as Exhibit C).

WHEREFORE, Defendants pray that the above action now pending against them in the Superior Court of the Commonwealth of Massachusetts, Middlesex County, be removed therefrom to this Court.

Respectfully submitted,

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE,
MARTIN BRESLIN, and
RICHARD SPINGEL,

By their attorney,

/s/ Robert P. Joy
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Dated: August 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel for plaintiff, Joseph L. Sulman and David I. Brody, Law Office of Joseph L. Sulman, 185 Devonshire Street, Suite 502, Boston, Massachusetts 02110, by ECF and first class mail on this 26th day of August, 2013.

/s/ Robert P. Joy
Robert P. Joy